

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 3880 – HB 3796

May 25, 2010

SUMMARY OF AMENDMENTS (018702, 018785): Reduces the capital outlay component of the Basic Education Program (BEP) formula by \$14 per square foot for K-4 classrooms and by \$12 per square foot for other classrooms in FY10-11 and subsequent years with the intent that the state share of the BEP formula not include growth in capital outlay. These provisions will not preclude the appropriation of non-recurring funds to the BEP for distribution to local education agencies through the BEP formula. Statutory pay raises for state troopers and commissioned officers in the Department of Safety, the Peace Officer Standards and Training (POST) Commission, and the Law Enforcement Training Academy are suspended. Statutory pay raises for assistant district attorneys, criminal investigators, assistant public defenders, public defenders' investigators, and assistant post-conviction defenders are suspended. Statutory pay raises for wildlife officers, biologists, and positions unique to the Tennessee Wildlife Resources Agency (TWRA) are also suspended. Quarterly installments payable to the 20th and 30th judicial district offices (Davidson and Shelby Counties) may be reduced by an amount sufficient to meet the offices' pro-rata share of any reversion of funds in support of the Public Defenders' Conference over-appropriation.

The operation of the Cook-Chill program is transferred to TRICOR from the Department of General Services. The Commissioner of Finance and Administration's authority to transfer funds from statutory reserves is extended through June 30, 2011. The requirement for the Governor to recommend a deposit to the rainy day fund is suspended for FY10-11. Includes amounts allowable, without regard to any offset, to any debt issuers from the federal government with respect to qualified bonds within the definition of "revenues" as it applies to the state school bond authority. Authorizes municipalities to expand the service area of fiber projects including Internet, 2-way video transmission, video programming, cable, and like services beyond the boundaries of the municipal electric system with the consent of the municipal electric system board or supervisory body and the electric cooperative or municipal electric system and if approved by a two-thirds majority of the chief legislative body. Authorizes the acquisition, improvement, and operation of broadband technologies and infrastructure by local governments if the infrastructure is made available on an open-access basis. Increases from four to seven the percentage points above the average prime loan rate for recovery zone facility bonds issued by industrial development bonds.

Amendment 018785 prohibits the collection of any tax due for any beer or ale that has been rendered unsalable and subsequently destroyed as a result of flooding occurring between May 1, 2010, and May 8, 2010. Any tax previously paid by the wholesaler on any such beer or ale that was destroyed will be allowed as a credit against the tax levied on the subsequent purchase of beer or ale by the wholesaler. This will only apply if the flooding resulted in the destruction of at

least 50 barrels, or liquid volume equivalent, of beer or ale and satisfactory proof of the destruction is submitted to the Department of Revenue.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – Not Significant

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Decrease State Revenue - \$150,000/One-Time

Decrease State Expenditures – Net Impact - \$295,200/General Fund

**State Expenditures – Cost Avoidance - \$31,725,100/General Fund
\$545,000/TWRA Fund**

Increase Local Revenue – Exceeds \$100,000/Permissive

Increase Local Expenditures - Exceeds \$100,000/Permissive

Exceeds \$30,000/1st Year Debt Service/Permissive

Local Expenditures – Cost Avoidance - \$29,600,000/Permissive

Other Fiscal Impact – The proposed legislation authorizes the transfer of approximately \$292,151,500 in reserves from funds enumerated in Tenn. Code Ann. § 4-3-1016. The Cook-Chill program reserve fund of approximately \$1,500,000 will transfer to TRICOR from the Department of General Services.

The Administration Amendment to the Governor’s proposed FY10-11 budget reflects \$32,565,300 state cost avoidance.

Assumptions applied to amendments:

- The state share of the BEP formula in FY10-11 and subsequent fiscal years will not include growth in capital outlay that otherwise would have occurred. According to the Department of Education, this will result in a cost avoidance of \$29,600,000. The state share is approximately 50 percent of the total non-classroom components of the BEP. Therefore, this would result in a cost avoidance of \$29,600,000 in permissive local expenditures.
- The suspension of statutory salary increases will result in cost avoidance for FY10-11. The positions whose salary increase has been suspended include the Department of Safety Highway Patrol Troopers (\$824,500), commissioned officers of the Law Enforcement Training Academy (\$12,100), Assistant District Attorneys General and Criminal Investigators (\$876,400), Assistant District Public Defenders and Investigators (\$386,500), Assistant Post-Conviction Defenders (\$25,600), and TWRA Wildlife officers, biologists, and unique positions (\$545,000). The total cost avoidance is estimated to be \$2,125,100 in the General Fund and \$545,000 in Dedicated Funds.

- According to the Department of Finance and Administration, the Davidson and Shelby County district public defender appropriations may currently share in the Public Defender Conference's reversion to the General Fund supporting the over-appropriation. In FY08-09, this resulted in a decrease in local revenue of \$85,000 for Shelby County and \$44,000 for Davidson County. Codifying this provision will not result in a new decrease in local revenue, but a continuation of current practice.
- According to the Department of Finance and Administration, the four year average budget of the Cook-Chill program is \$4,094,300. This amount is being transferred to TRICOR with the operation of the Cook-Chill program.
- According to the Department of Finance and Administration, TRICOR will operate the program without a director, compliance officer, truck driver, and dietician that are currently employed by DGS. The Department estimates the elimination of these four positions is estimated to reduce state expenditures by \$400,000 and other expenditures by \$75,600 which is departmental revenue of the user agencies.
- The Department of Correction will require a correctional corporal and two correctional officers resulting in an increase in state expenditures of \$104,800 for salaries (\$74,600) and benefits (\$30,200).
- The net decrease in state expenditures resulting from the transfer of the operation of the Cook-Chill program from DGS to TRICOR is \$295,200 (\$400,000 - \$104,800).
- There is also a Cook-Chill reserve fund that will transfer from the Department of General Services to TRICOR. As of FY07-08 closing, the reserve fund had approximately \$1,500,000.
- The reserve funds enumerated in Tenn. Code Ann. § 4-3-1016 are estimated to total \$292,151,500 at June 30, 2010. These funds will be available for transfer.
- According to the Comptroller's Office, the definition of revenue as it relates to school bond authorities is necessary to ensure that federal subsidies through the American Recovery and Reinvestment Act are received by the 13 – 15 local governments that may issue the bonds instead of being included within the ARRA funds received by the state. This will not result in additional ARRA funds being received.
- Any increase in expenditures for installing broadband infrastructure will require additional revenue from customers because the utilities must recover their costs through rates charged to customers. It is estimated that any increase in local expenditures will be permissive and will exceed \$100,000 and there will be an equal increase in revenue.
- According to the Tennessee Regulatory Authority (TRA), any additional responsibility for their office can be handled with existing resources.
- According to the Department of Finance and Administration, current Tennessee usury rate of prime plus four percent is low and most recovery zone facility bonds are not able to be issued under current industrial development board law. Increasing the usury rate to prime plus seven percent will result in an increase in the number of bonds issued.
- While an exact amount is not quantifiable due to a number of unknown factors, including the number of municipalities that will issue these bonds and the total amount of bonds to be issued, it is reasonably estimated that there will be an increase of debt service for local governments. For each \$1,000,000 of bonds issued with the additional three percent coupon rate, there will be a \$30,000 increase in the local obligation for the term of the bond issue. As a result, it is estimated that local government expenditures will increase by an amount exceeding \$30,000 for first-year debt service.

- According to the Department of Revenue, there will be three large beer wholesalers and possibly a few smaller wholesalers that will qualify for the tax credit on beer and ale that is unsalable and subsequently destroyed by the flooding that occurred May 1, 2010, through May 8, 2010. The Department estimates that this will result in a one-time decrease in revenue of \$150,000.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "White".

James W. White, Executive Director

/kml